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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,903	10/15/2001	Jason Lee Crouse	18617-0001	9491
29052	7590	10/08/2003		
SUTHERLAND ASBILL & BRENNAN LLP 999 PEACHTREE STREET, N.E. ATLANTA, GA 30309			EXAMINER WONG, STEVEN B	
			ART UNIT 3711	PAPER NUMBER
DATE MAILED: 10/08/2003				

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/890,903

Applicant(s)

CROUSE, JASON LEE

Examiner

Steven Wong

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Specification

The amendment to the Abstract has overcome the objection to the specification.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 5-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over St. John (GB 2,258,161). Regarding claim 5, St. John reveals a golf tee (note Figures 2 and 3) comprising a base (13) and a plurality of bristles (26c) that form an annular support surface for a golf ball. Note page 6, line 26 through page 7, line 3 teaching a bristle height of 40mm. St. John also states that this height may be varied. It would have been obvious to one of ordinary skill in the art to form the bristles of St. John to the instantly disclosed height in order to allow the golfer to tee the golf ball at a particular height. Note also Figure 2 showing the bristles in a vertical orientation when supporting the golf ball.

Regarding claims 6 and 7, it would have been obvious to one of ordinary skill in the art to provide the annular surface of St. John with an inside radius of 5 mm and an outside radius of 7.5 mm as the applicant has not shown the criticality for the claimed dimensions and it appears that the dimensions shown and taught by St. John would accomplish similar purposes.

Regarding claims 8, it would have been obvious to one of ordinary skill in the art to provide the clusters with 10 to 25 bristles in order to properly support the golf ball.

Regarding claim 9, note page 7, lines 24-26 stating that the bristles are preferably formed of plastic. It would have been obvious to one of ordinary skill in the art to form the bristles from nylon with a thickness of 0.4 mm in order to properly support the golf ball and take advantage of that material's well known physical characteristics.

Regarding claims 10-18, note Figures 2 and 3 showing a circular shape for the upper face of the base (13). Note page 6, lines 26 and 27 teaching a diameter of 20mm. It would have been obvious to one of ordinary skill in the art to form the base with a diameter of 18mm as the applicant has not shown the criticality for the claimed dimension and it appears that the dimension taught by St. John would accomplish similar purposes.

Response to Arguments

3. Applicant's remarks filed August 28, 2003 have been fully considered but are deemed to be moot in view of the new grounds of rejection. It should be noted, however, that the recitation "vertical orientation" is not seen as precluding splaying of the bristles. Even assuming that the bristles of the references splay to some extent due to the weight of the golf ball, this does not preclude them from being seen as extending in a vertical orientation.

Conclusion

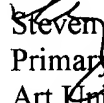
4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 703-308-3135. The examiner can normally be reached on Monday through Friday 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell can be reached on 703-308-2126. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-3579 for regular communications and 703-308-7768 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


Steven Wong
Primary Examiner
Art Unit 3711

SBW
October 1, 2003